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Billy Carter Case: A Fizzled Bombshell

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News Analysis

WASHINGTON, Oct. 3 — After they released their report on the Billy Carter investigation yesterday morning, some of the Senators were almost apologetic. Claiborne Pell, Democrat of Rhode Island, remarked that "in the beginning a lot of us thought we had a bear by the tail" but in the end "we really had a mouse." Charles McC. Mathias Jr., Republican of Maryland, commented that the problem had turned out not to be criminality but "folly." Even that most partisan of Republicans, Bob Dole of Kansas, felt compelled to note that there were "no parallels with Watergate."

The investigtion began nine weeks ago with enormous fanfare. Some Republicans saw a chance to deliver a mortal blow to President Carter's re-election campaign. Some reporters craved a Watergate-like scandal. Many Democrats were willing to go to almost any length to avoid being charged with a cover-up.

But, like the comet Kohoutek, the sensation that was promised never materialized. There are several reasons.

First, the facts of the case did not prove to be so damaging to the President as some had expected. No evidence of official corruption or clearly unethical conduct was developed. The Senate subcommittee unanimously concluded that the President had exercised poor judgment in the way he had dealt with his brother's relationship with Libya, but the charge seemed commonplace in light of the attacks by Mr. Carter's political opponents on his judgment in handling the economy and foreign policy.

Accustomed to Inquiries

Morever, whatever outrage the American people might have felt at the disclosure that the President's brother was an agent of a regime with a history of terrorism and extreme hostility toward the United States, there has been no indication that they blame the President for it.

Second, the country seems to have become inured to political investigations. Since the Watergate scandals broke in the Nixon Administration, there has hardly been a time when some committee or grand jury was not investigating one politician or another. The Carter Administration had not been in office a year when the investigation of Bert Lance developed. Then there was the question of the President's dismissal of David W. Marston as the United States Attorney in Philadelphia. Then came the peanut warehouse and Hamilton Jordan and Abscam, and by the time the Billy Carter matter came along, they all seemed to blend together.

Finally, President Carter was able to take the sting out of the Senate inquiry with a pre-emptive strike. On Aug. 4, before the Senate investigation had begun, he sent to Congress and made public a long statement recording in copious detail his actions and those of others in his Administration concerning Billy Carter. That night he held an hour-long news conference. He waived claims of executive privilege and ordered his staff to testify before the Senate subcommittee. He even offered to testify himself if the senators saw fit for him to do so.

In the end, the Senators decided not to call the President to testify and not even to send him written questions.

Nonetheless, while the Billy Carter investigation appears to have had little political impact, there are, in the view of many of the senators and lawyers involved, lessons to be learned from it.

The most important one seems to be that the post-Watergate efforts to prevent a President and other officials from abusing their power may have resulted in insulating the President and his top advisers from information they needed to carry out their responsibilities. Senator Mathias, one of the most studious and thoughtful members of Congress, wondered in his statement attached to the subcommittee's report whether "a whole new doctrine of plausible deniability has been constructed."

Consider the following: Adm. Stansfield Turner, the Director of Central Intelligence, learned last spring from a highly classified report that Billy Carter was trying to strike a deal with the Libyan Government to obtain an additional allocation of crude oil for an American company.

That was precisely the evidence the Justice Department needed to prove its suspicion that the President's brother was an agent of the Libyan Government. But Admiral Turner did not consult the Attorney General or the head of any other intelligence agency. He testified that he did not know that Billy Carter's relationship with Libya was under investigation. Apparently he was like the others who had become inured to investigations; the fact that Billy Carter was under investigation had been reported in newspapers for more than a year.

Instead, Mr. Turner took the information to Zbigniew Brzezinski, the President's national security adviser. Mr. Brzezinski's responsibility is foreign policy, not law enforcement. He took it upon himself to telephone Billy Carter to warn him to break off the deal and then told the President. Mr. Brzezinski also never bothered to check whether the material was important to the Justice Department.

Foreign Policy Implications

About the same time, Attorney General Benjamin R. Civiletti received similar information from a different intelligence official. Afraid of compromising intelligence sources, Mr. Civiletti testified, he withheld his information not only from his own professional investigators but also from the President and others who might have been able to gauge the foreign policy implications. The Attorney General, whose responsibility is law enforcement, not foreign policy, testified that he had decided unilaterally that the foreign policy aspects were not predominant.

A result of all this was that Billy Carter, the target of an investigtion, had secret Government information months before those investigating him had it and that the one person in the Government best placed to weigh the relative importance of foreign policy and law enforcement, the President, never had all the facts.

The lesson could be extremely valuable to some future Administration trying to determine the proper role of the President and his advisers in criminal investigations. By the time such procedures are considered, however, the report of the Billy Carter investigation will most likely be gathering dust somewhere in the stacks of the Library of Congress.

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